

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION

UNITED STATES OF AMERICA

v.

JOHN KOVELESKI, IV

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DOCKET NO. 1:17CR32

**FACTUAL BASIS**

NOW COMES the United States of America, by and through Jill Westmoreland Rose, United States Attorney for the Western District of North Carolina, and hereby files this Factual Basis in support of the plea agreement filed simultaneously in this matter.

This Factual Basis does not attempt to set forth all of the facts known to the United States at this time. This Factual Basis is not a statement of the defendant, and, at this time, the defendant may not have provided information to the United States about the offenses to which the defendant is pleading guilty, or the defendant's relevant conduct, if any.

By their signatures below, the parties expressly agree that there is a factual basis for the guilty plea(s) that the defendant will tender pursuant to the plea agreement. The parties also agree that this Factual Basis may, but need not, be used by the United States Probation Office and the Court in determining the applicable advisory guideline range under the *United States Sentencing Guidelines* or the appropriate sentence under 18 U.S.C. § 3553(a). The defendant agrees not to object to any fact set forth below being used by the Court or the United States Probation Office to determine the applicable advisory guideline range or the appropriate sentence under 18 U.S.C. § 3553(a) unless the defendant's right to object to such particular fact is explicitly reserved below. The parties' agreement does not preclude either party from hereafter presenting the Court with additional facts which do not contradict facts to which the parties have agreed not to object and which are relevant to the Court's guideline computations, to 18 U.S.C. § 3553 factors, or to the Court's overall sentencing decision.

1. On September 16, 2016, an FBI Online Covert Employee (OCE) was investigating the sharing of child pornography on the Internet through software known as "BitTorrent." During this investigation, a computer was located sharing child pornography. At 2:58 AM that day, the OCE made a direct connection to the suspect computer and downloaded one child pornography video file. The suspect computer belonged to JOHN KOVELESKI, IV. The downloaded video was entitled "BabyJ-mine.avi" and it depicted an adult male engaging in sexual intercourse with a female child under the age of 12. The adult male also ejaculated on the girl's body.
2. On September 18, 2016, the OCE again made a direct connection to the same computer which was once again controlled by KOVELESKI and downloaded a folder containing multiple images of child pornography. One image contained within the folder was entitled "pthc\_ptsc\_9yo\_jenny\_enjoying\_doggie\_cock.jpg." It depicted a female child under the age of 12 performing oral sex on an animal.

3. Based on this information, FBI Special Agents obtained subscriber information for the user of the suspect computer and learned that the subscriber lived at 428 Allen Street, Shelby, North Carolina.
4. On November 16, 2016, the FBI obtained a federal search warrant to search the suspect's residence for child pornography.
5. On November 21, 2016, FBI agents executed the search warrant at the residence. The residence was occupied by KOVELESKI's wife and adult children. KOVELESKI was not at home because he was away at a job site.
6. FBI agents went to meet KOVELESKI at the job site and he agreed to be interviewed. KOVELESKI said that he had a Galaxy [Samsung] Note phone. KOVELESKI told the agents that he downloaded child pornography and he was interested in younger girls. KOVELESKI said that he "liked them young" and he liked anything younger than 18. Agents seized KOVELESKI's Samsung Galaxy Note phone.
7. FBI forensic analysts later examined KOVELESKI's phone. The analysis revealed:
  - a. The "utorrent" BitTorrent software was installed on the phone. Search terms used by KOVELESKI on utorrent included "pthc," "Lolita," "pedo baby," and "babyj." These search terms are used to find child pornography.


- b. The phone contained the following child pornography:

Sadistic and Masochistic Child Pornography	3 videos and 318 images
Child Pornography Depicting Children Under 12 Years of Age	231 images
Other Child Pornography	3 videos and 36 images

- c. One video was entitled "andina5\_QTmpeg 5yo Mexican girl very loving dad.mpg." This video is 16 minutes and 36 seconds long. It depicts a female child under the age of 12 performing oral sex on an adult male. The adult then engages in vaginal intercourse with the child. The adult then digitally penetrates the child's vagina and anus with his fingers.
- d. One image is entitled "imgcache\_1.0\_98\_1475290995." It depicts a child under the age of three with an adult male who is inserting his penis into the child's mouth.
- e. KOVELESKI viewed and downloaded the child pornography described above to his phone.

8. The Internet is a facility of interstate commerce. The Samsung phone was manufactured outside of North Carolina. The child pornography images and videos depicted real children and they traveled in interstate commerce.

JILL WESTMORELAND ROSE  
UNITED STATES ATTORNEY

  
DAVID A. THORNELOE  
ASSISTANT UNITED STATES ATTORNEY

Defendant's Counsel's Signature and Acknowledgment

I have read this Factual Basis, the Bill of Indictment, and the plea agreement in this case, and have discussed them with the defendant. Based on those discussions, I am satisfied that the defendant understands the Factual Basis, the Bill of Indictment, and the plea agreement. I hereby certify that the defendant does not dispute this Factual Basis with the exception of those facts to which I have specifically reserved the right to object, and understands that it may be used for the purposes stated above.

  
Samuel L. Randall IV, Attorney for Defendant

DATED: 7/8/2017